

FAMILY COURT ISSUES THAT OCCUR IN DEPENDENCY CASES

Delinquency and Dependency

Crossover child: a child who is under the dual jurisdiction of the delinquency and dependency courts, though not necessarily under the care and supervision of either DJJ or DCF.

Statistics. Research has shown that victims of physical abuse/neglect are at an increased risk of becoming crossover children and engaging in delinquent acts. [1] In 1995, researchers found that between 9% and 29% of dependency children crossed over into delinquency court. [2] A more recent study found that the delinquency rate for children previously abused or neglected is 47% higher than for those with no such history. [3] Crossover children typically cross into the delinquency court for the first time around 14 years of age, although delinquent or disruptive behavior can begin as early as 7 years of age. [4]

Factors that influence. There are several factors that have been found to influence the chances a dependency-only child will become a crossover child. Each of the following factors, if present, has been found to increase the likelihood of crossing over.

Maltreatment.

Studies have shown that the abuse/neglect that causes a child to fall under the dependency court's jurisdiction can also affect his or her likelihood of becoming a crossover child. Specifically, abuse or neglect limited to adolescence or continuous abuse or neglect throughout childhood can lead to a wide variety of negative outcomes, chief among them juvenile delinquency. [1] Such abuse and/or neglect has been estimated to increase the risk of arrest as a juvenile by 55% and increase the risk of a violent crime arrest as a juvenile by 96%. [1] However, if the maltreatment is limited to early childhood and ends before adolescence, the child may not be impacted significantly enough for juvenile delinquency to be a common outcome. [1]

Childhood abuse in general increases the odds of future delinquency by 29%, although the likelihood of being arrested as a child increases by 59%. [5] In one study, researchers found that maltreated youths were 4.8 times more likely to be arrested as children and 11 times more likely to be arrested for a violent crime than matched control children who had not been maltreated. [6] Further, maltreated children were younger at the time of their arrest and committed nearly twice as many offenses. [6]

The implication that children who are abused and/or neglected tend to engage in delinquent acts at an early age is noteworthy. As one study noted, young offenders are 3 times more likely to become serious violent offenders. [7] Thus, there is a real need to understand the relationship between child maltreatment and juvenile delinquency.

Number of placements.

A factor that has been closely tied to delinquency is the number of placements a child has. Even one foster care placement significantly raises the likelihood that a child will come under delinquency court jurisdiction. [4] National data from 2008 indicated an average of 3.2

placements per child, with an average time in care per placement of 15.3 months. [8] Researchers from a study in California reported similar results. Ninety-eight percent of all crossover children had at least one out-of-home placement. [1] Sixty-three percent had been placed with a relative at some time, and 62% had been placed in a group home. Data from Florida between October of 2007 and September of 2008 indicates that the likelihood of increased placements increases the longer the child remains in DCF's care. [9] For children in care for less than twelve months, approximately 83% have two or fewer placement settings. [9] However, for children in care for 12 to 24 months, 61% have two or fewer placement settings. [9] Finally, for children in care for longer than 24 months, only 33% have two or fewer placement settings.[9]

Further, placement disruption has been linked to attachment disorders and other behavioral and emotional problems in children. [10] In particular, attachment disorders such as Reactive Attachment Disorder may frequently result from an increased number of placements, as the frequency of changes in placements and impermanence of care inhibit a child from developing healthy, secure attachments with a caregiver. [11] The more changes in caregiver a child experiences, the more likely the child is to develop an attachment disorder or behavioral problems. [11]

Instability in the dependency system, which results in a higher number of placements, has also been linked to rates of delinquency. Children with multiple placements, indicative of system instability, are more likely to enter the delinquency system. [11] In one study, males with 3 placements were 1.5 times more likely to become delinquent, and males with 4 or more placements were 2.1 times more likely to become delinquent than to males with only one placement.[11]

Placement setting.

Studies have shown that children in substitute care settings are approximately two times more likely to engage in delinquency than those receiving in home care. [11] Specifically, group home settings appear to be the most worrisome; in a Los Angeles study, children with at least one group home placement had 2.5 times greater risk of delinquency than similar children in other foster care settings. [12] In that study, 2106 children were found to be associated with at least one arrest. [12] Of that number, 1671 (79%) experienced their first arrest while in substitute care settings. [12] And of that number, 675 (40%) of the arrests occurred while the adolescent was in a group home placement. [12] This statistic becomes more concerning when the nature of the arrest is considered. Almost one-third (31%) of all arrests were related to placement, and two-thirds (66%) of all placement-related offenses occurred at a group home. [1]

Children in group homes were found to be half as likely to be arrested for a weapons-related offense as those not in group homes. [12] However, group home children are three times as likely to be arrested for a threat-related offense and twice as likely to be arrested for a violent offense. [12]

Peer contagion.

An additional factor that may affect adolescents is peer contagion - types of negative exposure and socialization processes that are likely to shape negative behaviors and attitudes. [1] Peer contagion can increase problem behaviors and negative life outcomes throughout adolescence. [1] Prolonged exposure to high risk peers has an unintended effect

of heightening deviant behavior via social relationships. [1] In the dependency system, delinquency can emerge as a child experiences increased placement instability. The bonds the child forms may be stronger with other delinquent children, due to the unstable environment, and will result in the intake and internalization of delinquent beliefs. [1] Once these delinquent patterns form, they have a “feedback effect, further compromising one’s bond with conventional societal norms.” [1] And the concept of deviant patterns includes smoking, alcohol problems, aggression, and delinquency, among others. [12]

Gang membership.

Peer contagion is an issue in the child welfare setting and group home placement in particular, but another aspect of peer contagion can be seen in gang membership. In a study done in New York, approximately 30% of the children studied joined a gang at some point between the ages of 14 and 18. [4] Gang members accounted for the majority of all delinquency in the study, with gang members involved in 63% of all delinquent acts, 82% of serious delinquencies, 70% of drug sales, and 54% of all arrests. [4] Further, the researchers found that gang members had a higher rate of delinquency during the period of gang membership but not before or after that period. [4] A study in Denver confirmed the New York findings. In the Denver study, gang members accounted for approximately 80% of all serious and violent crime (excluding gang fights). [4] These findings suggest that gang membership facilitates delinquent processes and patterns, making delinquency a much more likely outcome.

Depth of involvement.

Research suggests that “as penetration of the system deepened,” crossover children represent larger portions of delinquency cases. [1] In an Arizona study, only 1% of informal diversion delinquency cases were crossover, compared to 7% of probation supervision cases and 42% of probation placement cases. [1] One study indicated that judicial decisions resulting in detention are strongly associated with a child being in out-of-home placement at the time of the offense, with previous crossover referrals, with a history of running away, and with substance abuse problems. [3]

Recidivism.

Crossover children have been found to be as much as twice as likely to recidivate as compared to delinquency-only children. [1] Older children are significantly more likely to recidivate, and children exhibiting truancy patterns are more than twice as likely to recidivate. [13] Further, the trend to recidivate typically continues into adulthood. One study found that, by the age of 28, 89% of boys and 81% of girls in the study were rearrested, and 85% of the boys and 63% of the girls were convicted. [14] In terms of cross-system involvement, 89% of delinquent boys and 87% of delinquent girls were arrested or identified as conformed perpetrators of abuse or neglect before age 28. [14]

Effective practices in crossover cases.

Court communication.

The court should ask at every hearing whether the parties involved in the delinquency proceeding are involved in any related dependency cases. [3] If other related cases are identified, the court should communicate with the judge or judges who are hearing the other cases involving the crossover child. Identifying a crossover child can prevent a variety of

problems, including duplication of efforts, miscommunication, and extended detention, [15] because it increases coordination between courts hearing cases involving the crossover child.

Interagency collaboration.

Studies have shown that when coordination is lacking, child functioning and wellbeing are negatively impacted. [16] One of the most effective practices the court can engage in is ensuring that the child gets the help and resources he or she needs from both the dependency and delinquency agencies. [15,19] The court may inquire, when appropriate, of the agency representatives as to the state of the provision of services to the child by both agencies.

Dispositional considerations.

Traditional delinquency practices can fail to adequately address common consequences of trauma and may re-traumatize a vulnerable child. [14] Thus, when the court reviews possible dispositional outcomes for a crossover child, the court should consider not just the crossover child's actions but also his or her living situation. [3] Such a comprehensive examination of the family's needs and strengths, combined with an assessment by DJJ or DCF to determine whether the child is at risk of abuse or neglect, can ensure that the court has the necessary knowledge to appropriately determine the crossover child's outcome. [3]

Possible dispositional outcomes that the court may consider in crossover cases, in addition to traditional dispositional options, include ordering the parent or legal guardian of a crossover child adjudicated delinquent to attend a course of instruction in parenting skills, and ordering the child and/or parent or guardian to accept counseling or to receive other assistance from any agency in the community. [17] These approaches result in reduced recidivism, fewer institutional commitments, less criminality among parents and older children, improved educational status, and improved family functioning, among other positive results. [15]

Confidentiality of information.

The court should make certain that any information gathered from a crossover child as part of a diagnostic evaluation is not later used against the child as evidence in court to support a finding of guilt or to enhance punishment. [4] Any such use would "compromise the therapeutic process intended to help troubled foster youth by using it as an opportunity for their self-incrimination rather than as a means to promote the process of rehabilitation and recovery from their victimization." [4]

The Breakthrough Series Collaborative Team Model.

Also known as the "Georgetown Model," the Breakthrough Series Collaborative Team Model is intended to provide a collaborative framework for courts dealing with crossover children. The model guides courts and agencies to work together and share information and duties. The model encourages family participation and emphasizes that crossover children and their families have strengths which, if used properly, would create improved services for the children. [18]

Time management.

The court may consider reserving a block of time on the court's calendar specifically for crossover case hearings. [15] The schedules of the parties could be coordinated and streamlined by reserving a period of time, as opposed to interspersing them throughout the non-crossover cases. Additionally, scheduling for time-certain hearings can improve the

predictability of court events and enhance the credibility and public perception of the court.
[15]

Courtroom practices.

Crossover children often come under the jurisdiction of the dependency court as a result of abuse in the home. The court in a delinquency proceeding should be aware of the dynamics of family domestic abuse and how they may affect the child or the child's parents or guardians.

Resources.

DJJ-DCF Profile of Dually-Served Crossover Youth Dashboard:

<http://www.djj.state.fl.us/research/delinquency-data/djj-dcf-profile-of-dually-served-crossover-youth/djj-dcf-dashboard>

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